

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, OCTOBER 13, 2015 – 7:00 P.M.

(AMENDED TO ADD R-26)

Prayer offered by Councilman Paul R. Riddick, followed by the Pledge of Allegiance.

The following members were present: Mrs. Johnson, Mr. Riddick, Mr. Protogyrou, Mr. Smigiel, Dr. Whibley, Mr. Winn and Mr. Fraim.

President Fraim moved to excuse Mrs. Graves from today's meeting.

Motion adopted.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Dr. Whibley, Winn and Fraim.

No: None.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Dr. Whibley, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CEREMONIAL MATTER

Carol McCormack of United Way presented Council with a plaque, thanking the employees of the City of Norfolk for contributing \$253,000.00 and for the grant money they received to assist in the United for Children Program at Jacox Elementary School.

PUBLIC HEARING

PH-1

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to amend and reordain **Sections 1 and 2** of the **Capital Improvement Program Budget for the Fiscal Year 2016, SO AS TO** increase funding for certain projects approved therein by \$2,200,000.

Thereupon, An Ordinance entitled, “An Ordinance to amend and reordain Sections 1 and 2 of the **Capital Improvement Program Budget for the Fiscal Year 2016, SO AS TO** increase funding for certain projects approved therein by \$2,200,000; and to authorize the expenditure in cash by appropriating and transferring \$2,200,000, from the general fund for the fiscal year 2016,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CONSENT AGENDA

C-1

Letter from the City Clerk presenting the request of Holidays in the City for use of the **Mace** during the **31st Annual Holidays in the City Grand Illumination Parade** to be held on **Saturday, November 21, 2015** at 6p.m.

ACTION: Use of the Mace and Police Honor Guard approved.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn and Frain.

No: None.

REGULAR AGENDA

R-1

Matter of a letter from the City Attorney and an Ordinance entitled, “An Ordinance to amend and reordain the **Code of the City of Norfolk, 1979**, to add a new **Subsection (F) to City Code Section 34.1-60** to authorize taxicabs to contract for additional charges for additional services,” was introduced in writing and read by its title.

(Delayed at the meeting of September 15, 2015)

Judy Swystun, 2000 East Ocean View Avenue, spoke on behalf of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Smigiel, Whibley, Winn, and Frain.

No: Riddick.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain the **City’s Operating Budget for Fiscal Year 2016** to add \$6,500,000 to the Budget, to amend and reordain **Sections 1 and 6** of **Ordinance No. 45,955 (Operating Budget Ordinance for Fiscal Year 2016)** SO AS TO appropriate and authorize the expenditure of funds in the additional amount of \$150,000 for the Department of Public Works, \$900,000 for Central Appropriations, \$250,000 for Department of Police and \$5,200,000 for Debt Service and to appropriate and reserve \$1,000,000 for the Risk Management Reserve and \$1,000,000 for the Economic Downturn and Leveling Reserve,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-3

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a microbrewery known as **‘Bold Mariner Brewing Company’** on property located at **2409 Bowdens Ferry Road, Suite A,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of a **Pawnshop**, currently unnamed, on property located at **6150 East Virginia Beach Boulevard**,” was introduced in writing and read by its title.

Joseph Address, the applicant, 6150 East Virginia Beach Boulevard, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Smigiel, Whibley, Winn, and Frain.

No: Riddick.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** authorizing the operation of an entertainment establishment named ‘**Leiaunte’s**’ on property located at **5802 East Virginia Beach Boulevard, Suite 140**, was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Smigiel, Whibley, and Frain.

No: Riddick.

Abstained: Winn.

Mr. Winn noted his wish to abstain because a proposal has been submitted to his company to provide landscaping services in connection with the development.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an indoor **Flea Market** named ‘**The Looking Glass**’ on property located at **5685 East Virginia Beach Boulevard**,” was introduced in writing and read by its title.

Cheri Smith, 500 Sterling Road, Virginia Beach, was present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the relocation, vacation and release of a **Verizon Easement** located over city-owned property between **St. Paul’s Boulevard, Fenchurch Street** and **Wood Street** in accordance with the **Easement Relocation Agreement**; and authorizing the City Manager to execute the Easement Relocation Agreement on behalf of the City,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the vacation and release by the **City of Norfolk to Watermark Apartments, LP**, a certain portion of a **2007 Drainage Easement** located on the west side of **Newport Avenue**; and authorizing the City Manager to execute and deliver a **Deed of Release** on behalf of the City and to do all of the things necessary and proper to effect the vacation and release of said portion of the Drainage Easement,” was introduced in writing and read by its title.

ACTION: WITHDRAWN.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance permitting **Ronald F. Hicks** and **Cheryl A. Hicks** to encroach into City property at **238 West Ocean View Avenue**, with a wood walkway and stairs,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-10

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving an amendment to the **Encroachment Agreement** between the **City of Norfolk** and **Little Dog Diner, LLC SO AS TO** increase the area of the authorized encroachment at **1917 Colley Avenue,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting, appropriating and authorizing the expenditure of \$25,000 in grant funds from funds for **Cities of Service, Inc.**, for the establishment and operation of a program to alleviate poverty,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting \$43,104.00 from the **Schools and Libraries Division** of the **Universal Service Fund E-Rate Reimbursement Program** and appropriating and authorizing the expenditure of \$43,104.00 for telecommunications and technology services for the **Norfolk Public Library,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting \$44,986.12 from the **Schools and Libraries Division** of the **Universal Service Fund E-Rate Reimbursement Program** and appropriating and authorizing the expenditure of \$44,986.12 for telecommunications and technology services for the **Norfolk Public Library**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-14

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting \$6,549.27 from the **Schools and Libraries Division** of the **Universal Service Fund E-Rate Reimbursement Program** and appropriating and authorizing the expenditure of \$6,549.27 for telecommunications and technology services for the **Norfolk Public Library**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting \$5,000 in grant funds from the **Virginia Commission for the Arts**, appropriating the grant funds and authorizing the expenditure of the grant funds and \$5,000 in local cash matching funds for distribution by the City on a competitive basis to local Arts organizations,” was introduced in writing and read by its title.

Karen Rudd and Debra Burrell, from the Arts, were present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance amending **Ordinance No: 45,662** accepting and appropriating \$769,234 from the **Virginia Department of Fire Programs** for the ‘**Aid-To-Localities’ Program for Fiscal Year 2015,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-17

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting and appropriating up to the sum of \$769,536 from the **Virginia Department of Fire Programs** for the ‘**Aid-To-Localities’ Program,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-18

Letter from the City Manager and a Resolution entitled, “A Resolution ratifying a **Declaration** of a **State of Local Emergency** made by the **Director of Emergency Management** for the **City of Norfolk, Virginia**, pursuant to **Virginia Code Section 44-146.21**, due to the hazards and damages of the **Hurricane Joaquin,**” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-19

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to **Archer Western Contractors**, \$28,929.55 plus interest based upon the overpayment of **Business Personal Property Tax for the Year 2015**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-20

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to **Sovran Acquisition Limited Partnership**, \$11,047.36 plus interest based upon the overpayment of **Business Professional and Occupation License Tax for the Years 2013 through 2015**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-21

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to **Sovran Acquisition Limited Partnership**, \$3,108.75 plus interest based upon the overpayment of **Business Professional and Occupation License Tax for the Years 2013 through 2015**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-22

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting, appropriating and authorizing the expenditure of \$75,000 in grant funds, if and when received from the **National Endowment for the Arts**, for art and rising tides: a project for sea level rise and environmental art in the **Norfolk Arts District** and authorizing the additional expenditure of \$50,000, previously appropriated, as a local cash match,” was introduced in writing and read by its title.

Karen Rudd and Debra Burrell, from the Arts, were present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-23

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a **Lease Agreement** between **Tak Acquisitions, LLC**, as **Lessor**, and the **City of Norfolk**, as **Lessee**, for the Lease of that certain property owned by **Tak Acquisitions, LLC**, located at **768 Granby Street**, and authorizing the City Manager to execute the Lease Agreement on behalf of the City of Norfolk,” was introduced in writing and read by its title.

Karen Rudd and Debra Burrell, from the Arts, were present to answer questions.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-24

Letter from the City Manager and an Ordinance entitled, “An Ordinance requesting the **Virginia Department of Transportation** to establish a project for **Signal Retiming Improvements, Phase III**, in accordance with the **Programmatic Project Administration Agreement** between the **City of Norfolk** and the **Virginia Department of Transportation**; and appropriating and authorizing the expenditure of the total sum of \$600,000.00 for this project, subject to and in accordance with the terms and conditions of the aforesaid **Agreement**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-25

Letter from the City Manager and an Ordinance entitled, “An Ordinance requesting the **Virginia Department of Transportation** to establish projects for **Citywide ADA Ramp Construction, Phase II** and the **Brambleton Avenue Pedestrian and Safety Improvements** in accordance with the **Programmatic Project Administration Agreement** between the **City of Norfolk** and the **Virginia Department of Transportation**; and appropriating and authorizing the expenditure of the total sum of \$2,250,000.00 for these projects, subject to and in accordance with the terms and conditions of the aforesaid **Agreement**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-26

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the **2016 Officer and Employee Health Insurance Plans**, the employer and employee contribution rates and authorizing the expenditure of a sum sufficient from the **Health Care Fund** heretofore appropriated,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-27

A Resolution entitled, “A Resolution appointing **6** persons to the **Legends of Music Walk of Fame Committee** for a certain term,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective October 13, 2015.

Yes: Johnson, Protogyrou, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

NEW BUSINESS

1. Ellis James, 2021 Kenlake Place, thanked the City and Team, Norfolk for all their efforts during Hurricane Joaquin and offer additional suggestions for signage on Hampton Boulevard and other areas subject to flooding.
2. Danny Lee Ginn, 3844 Dare Circle, commented on good government.